

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL MEMORANDUM

HB 962 – SB 1127

March 31, 2009

SUMMARY OF AMENDMENT (005374): Increases the penalty from a Class A misdemeanor to a Class E felony for a person to possess a firearm in an establishment that serves liquor, wine, or other alcoholic beverages for on-site consumption and for a person licensed to carry a handgun to possess the handgun while under the influence of alcohol or any controlled substance.

FISCAL IMPACT OF ORIGINAL BILL:

Decrease Local Revenue – Not Significant
Decrease Local Expenditures – Not Significant

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Increase State Expenditures - \$18,449,500/Incarceration*

Assumptions applied to amendment:

- Currently, possession of a firearm in an establishment where liquor, wine, or other alcoholic beverages are served for on-site consumption is a Class A misdemeanor. It is currently a Class A misdemeanor for a person licensed to carry a handgun to possess the handgun while under the influence of alcohol or any controlled substance.
- According to the Administrative Office of the Courts, there has been an average of 45 state court convictions for Class A misdemeanors for possession of a handgun under the influence in each of the past five years. State court convictions are 10 percent of the total convictions. Total convictions, including general sessions courts, are estimated to be an average of 450 per year. The first year 450 offenders would receive a Class E felony rather than a Class A misdemeanor.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth would result in 47 additional offenders.

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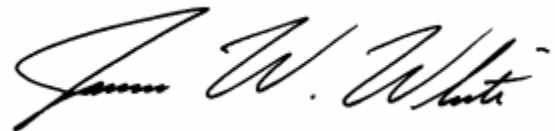
The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 497 offenders.

- According to the Department of Correction (DOC), the average operating cost per offender per day for calendar year 2009 is \$59.80 and the average post-conviction time served for a Class E felony is 1.63 years. The cost per offender at 1.63 years is \$35,548.11 (\$59.80 x 594.45 days). The total additional operating cost for 497 offenders is \$17,667,410.67 (\$35,548.11 x 497).
- According to the AOC, there has been an average of two state court convictions for Class A misdemeanors for possession of a firearm where alcoholic beverages are served in each of the past five years. State court convictions are 10 percent of the total convictions. Total convictions, including general sessions courts, are estimated to be an average of 20 per year. The first year 20 offenders would receive a Class E felony rather than a Class A misdemeanor. Population growth will result in two additional offenders. The maximum cost in the tenth year is based on 22 offenders. The total additional operating cost for 22 offenders is \$782,058.42 (\$35,548.11 x 22).
- The total additional operating cost is \$18,449,469.09 (\$17,667,410.67 + \$782,058.42).

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

/lsc